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EXAMINER

LONSBERRY, HUNTER B

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 03/31/2003

16

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/513,964

Applicant(s)

MEYERS, STEPHAN

Examiner

Hunter B. Lonsberry

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on 03 January 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12,14-18,20-36,39 and 40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12,14-18,20-36,39 and 40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 February 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) g. 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Amendment*

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,192,340 to Abecassis and Musicmatch Jukebox software<sup>the article</sup> in view of U.S. Patent 6,470,378 to Tracton.<sup>a</sup>

Regarding claim 1, Abecassis discloses a method of generating a virtual broadcast on a multimedia player (Figures 2, 7-10), in which music content and stock information (column 14, lines 45-65, column 20, lines 24-36) is downloaded to the player device from a web page in any order or may be stored locally (column 14, lines 45-65, column 22, lines 42-52); user preferences, as well as the Musicmatch AUTODJ software (Column 15, line 20-column 21, line 67, Musicmatch Webpage) is used to automatically create a playlist according to a selected algorithm on the virtual broadcast device. Abecassis and the Musicmatch Software do not disclose a virtual broadcast device which is a phone, but instead use a portable device or a PC. Tracton discloses the use of a browser enabled mobile phone with JavaScript capability which connects to<sup>^</sup>  
(see fol 7, lines 25-34)

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the Internet, a server is able to detect the type of processor in a client device and transmits to the client device scalable levels of content, including MPEG video, appropriate to the capabilities of the processor in a client device, additionally custom page data or targeted advertising may be sent to a specific device, each device may include a user profile (column 5, line 13-column 8, line 55, line 63-column 9, line 19). Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Abecassis and the Musicmatch Software to download content to a mobile phone as taught by Tracton thereby enabling a user to view a virtual broadcast at any location.

Regarding claim 2, Abecassis discloses playing the virtual broadcast on the virtual broadcast device (column 13, line 62-column 14, line 17).

Regarding claims 3 and 4, Abecassis discloses that the device may connect intermittently to a website to download data and may download data based on user preferences (column 14, lines 45-65, column 16, lines 19-67).

Regarding claim 5, Abecassis discloses a radio on demand system in which informational content and advertisements are seamlessly integrated with a users personal audio library and played back according to a user's preferences (column 17, line 25-column 19, line 37).

Regarding claim 14, Abecassis discloses a method of generating a virtual broadcast on a multimedia player (Figures 2, 7-10), in which music content and stock information (column 14, lines 45-65, column 20, lines 24-36) is downloaded to the player device from a satellite or cable system in any order or may be stored locally (column 14, lines 45-65, column 16, lines 31-46, column 22, lines 42-52); user

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preferences, as well as the Musicmatch AUTODJ software (Column 15, line 20-column 21, line 67, Musicmatch Webpage) is used to automatically create a playlist according to a selected algorithm on the virtual broadcast device. Abecassis and the Musicmatch Software do not disclose a virtual broadcast device which is a phone, but instead use a portable device or a PC. Tracton discloses the use of a browser enabled mobile phone with JavaScript capability which connects to the Internet, a server is able to detect the type of processor in a client device and transmits to the client device scalable levels of content, including MPEG video, appropriate to the capabilities of the processor in a client device, additionally custom page data or targeted advertising may be sent to a specific device, each device may include a user profile (column 5, line 13-column 8, line 55, line 63-column 9, line 19). Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Abecassis and the Musicmatch Software to download content to a mobile phone as taught by Tracton thereby enabling a user to view a virtual broadcast at any location.

Regarding claim 15, see claim 2.

Regarding claim 16, see claim 5.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-12, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,192,340 to Abecassis and Musicmatch Jukebox software in view of U.S. Patent to Tracton in further view of U.S. Patent 6,199,076-B1 to Logan.

Regarding claims 6 and 17, Abecassis discloses downloading content and integrating the downloaded content with locally stored items. Abecassis does not disclose organizing the contents with a plurality of introductions related to the content or the use of a virtual broadcast device which is a phone, instead Abecassis/Musicmatch use a portable device or a PC. Tracton discloses the use of a browser enabled mobile phone with JavaScript capability which connects to the Internet, a server is able to detect the type of processor in a client device and transmits to the client device scalable levels of content, including MPEG video, appropriate to the capabilities of the processor in a client device, additionally custom page data or targeted advertising may be sent to a specific device, each device may include a user profile (column 5, line 13-column 8, line 55, line 63-column 9, line 19). Logan discloses a method in which the content downloaded to the device is made up of a number of items, introductions for the content to be broadcasted on the device is downloaded, and part of the program organizing process includes introducing each program with a related introduction (column 30, lines 1-9, column 2, 19-24). Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Abecassis/Musicmatch to transmit content to a mobile phone and include the introductions of Logan thereby enabling a user to know what song there were about to hear without looking at a display device.

Regarding claim 7, Abecassis discloses a virtual radio broadcast (column 17, line 25-column 19, line 37) and that there maybe a plurality of songs (column 15, lines 45-67).

Regarding claim 8, Logan discloses that more than one program can be processed at the same time (column 7, lines 24-31).

Regarding claim 9, Logan discloses that the content comprises a number of songs and that the user may assign a priority value to the scheduled program (column 9, lines 15-25) or delete it (column 9, lines 11-12).

Regarding claim 10, Logan discloses that the user can rate a plurality of songs by assigning a weighted priority value (column 9, lines 15-25).

Regarding claim 11, Logan discloses that after a program has finished playing, the device connects to the website and uploads the user priority given to the program and downloads additional content and other information based upon the user ranking (column 9, lines 30-50).

Regarding claims 12 and 18, Abecassis discloses that the device may be portable, (Figure 2, column 13, lines 62-column 14, line 7).

Claims 20-25, 36 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,199,076-B1 to Logan in view of U.S. Patent 6,192,340 to Abecassis and Musicmatch Jukebox software and U.S. Patent 6,470,378 to Tracton in further view of U.S. Patent 6,188,398-B1 to Collins-Rector.

Regarding claim 20, Logan discloses a method for generating a virtual broadcast on a laptop through the following method: a number of news programs and related data are downloaded and stored on the laptop from a website in any order (column 30 lines 37-42, column 6, lines 51-67), the content and related data is organized on the device according to an algorithm stored on the device (column 8, lines 39-53), the device may reconnect and download additional news stories from the website (column 9, lines 51-62) and generate an updated broadcast which includes the new content. Logan does not disclose that the programs played on the device are television broadcast video files and organizing the virtual broadcast according to an algorithm on the device and the use of a mobile phone which connects to a website. Abecassis and the Musicmatch software disclose the use of an algorithm to create a playlist that is stored on the virtual broadcast device (column 13, lines 23-43, column 15, lines 27-67, Musicmatch webpage). Tracton discloses the use of a browser enabled mobile phone with JavaScript capability which connects to the Internet, a server is able to detect the type of processor in a client device and transmits to the client device scalable levels of content, including MPEG video, appropriate to the capabilities of the processor in a client device, additionally custom page data or targeted advertising may be sent to a specific device, each device may include a user profile (column 5, line 13-column 8, line 55, line 63-column 9, line 19). Collins-Rector teaches that a frames capable web browser utilizing a QuickTime or similar browser plug in may be used to handle video information for display to a user (column 2, line 63-column 3, line 6). Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Logan to



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connect to the internet with a mobile phone browser as taught by Tracton utilize a web browser containing a QuickTime browser plugin, as taught by Collins-Rector, and to run the playlist creation program locally as taught by Musicmatch and Abecassis, to view video encoded news stories in order to provide a user with a customized broadcast tailored to their specific interests and allow a user to view news items.

Regarding claim 21, Logan discloses that an old program may be deleted from the plurality of news stories stored on the device (column 9, lines 11-12, column 28, lines 15-23).

Regarding claim 22, Logan discloses that the broadcast device may use a web browser such as Netscape Navigator or Microsoft Internet Explorer which allow a user to view news as well as other information at the same time on different portions of the screen (column 10, lines 7-11).

Regarding claim 23, Logan discloses a method for generating a virtual broadcast on a device via the following method: receiving a cellular radio or broadcast satellite signal (column 7, lines 44-49), the signal comprising audio of news and other data to be integrated in a virtual broadcast (column 8, lines 29-41, column 30, lines 37-42), organizing the content and other data on the device in a particular order for the virtual broadcast according to a selected algorithm provided on the virtual broadcast device (column 8, lines 39-53), periodically downloading an additional news story from a website and generating an updated virtual broadcast that includes the additional news story (column 9, lines 51-62). Logan does not disclose that the device can play television video encoded images on the laptop or organize the content according to a

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selected algorithm on the broadcast device, or connecting to a website with a mobile phone. Abecassis and the Musicmatch software disclose the use of an algorithm to create a playlist that is stored on the virtual broadcast device (column 13, lines 23-43, column 15, lines 27-67, Musicmatch webpage). Tracton discloses the use of a browser enabled mobile phone with JavaScript capability which connects to the Internet, a server is able to detect the type of processor in a client device and transmits to the client device scalable levels of content, including MPEG video, appropriate to the capabilities of the processor in a client device, additionally custom page data or targeted advertising may be sent to a specific device, each device may include a user profile (column 5, line 13-column 8, line 55, line 63-column 9, line 19). Collins-Rector teaches that a frames capable web browser utilizing a QuickTime or similar browser plug in may be used to handle video information for display to a user (column 2, line 63-column 3, line 6). Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Logan to connect to the internet with a mobile phone browser as taught by Tracton utilize a web browser containing a QuickTime browser plugin, as taught by Collins-Rector, and to run the playlist creation program locally as taught by Musicmatch and Abecassis, to view video encoded news stories in order to provide a user with a customized broadcast tailored to their specific interests and allow a user to view news items.

Regarding claim 24, Logan discloses that an old program may be deleted from the plurality of news stories stored on the device (column 9, lines 11-12, column 28, lines 15-23).

Regarding claim 25, Logan discloses that the broadcast device may use a web browser such as Netscape Navigator or Microsoft Internet Explorer which allow a user to view news as well as other information at the same time on different portions of the screen (column 10, lines 7-11).

Regarding claim 36, Logan discloses that the device may be a laptop capable of displaying a video image (column 4, 34-41). The combined system of Abecassis, Musicmatch and Logan do not disclose the ability to play videos on the device. Collins-Rector teaches that a frames capable web browser utilizing a QuickTime or similar browser plug in may be used to handle video information for display to a user (column 2, line 63-column 3, line 6). Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combined system of Abecassis, Musicmatch and Logan to include a web browser containing a QuickTime browser plug in to view video encoded news stories and other content in order to provide a user with a customized broadcast tailored to their specific interests.

Regarding claim 40, Logan discloses a device in figure 1, for generating a virtual broadcast comprised of: a memory (storage unit 107), a modem 115 for inputting data comprised of news and other information to be integrated into the virtual broadcast and stored in storage unit 107(column 30, lines 31-35), Client CPU 105 which organizes the news stories and other information into a particular order for the virtual broadcast by actuating a specific algorithm provided on the device (column 9, lines 15-30), means for inputting additional news stories and generating an updated virtual broadcast by including an additional news story (column 9, lines 51-62). Logan does not disclose

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integrating downloaded video content from a website as part of a virtual broadcast and the use of an algorithm on the broadcast device for organizing data, as well as a using a mobile phone to connect to the internet. Abecassis and the Musicmatch software disclose the use of an algorithm to create a playlist that is stored on the virtual broadcast device (column 13, lines 23-43, column 15, lines 27-67, Musicmatch webpage). Tracton discloses the use of a browser enabled mobile phone with JavaScript capability which connects to the Internet, a server is able to detect the type of processor in a client device and transmits to the client device scalable levels of content, including MPEG video, appropriate to the capabilities of the processor in a client device, additionally custom page data or targeted advertising may be sent to a specific device, each device may include a user profile (column 5, line 13-column 8, line 55, line 63-column 9, line 19). Collins-Rector teaches that a frames capable web browser utilizing a QuickTime or similar browser plug in may be used to handle video information for display to a user (column 2, line 63-column 3, line 6). Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Logan to use a mobile phone with a browser as taught by Tracton utilize a web browser containing a QuickTime browser plugin, as taught by Collins-Rector, and to run the playlist creation program locally as taught by Musicmatch and Abecassis, to view video encoded news stories in order to provide a user with a customized broadcast tailored to their specific interests and allow a user to view news items even if access to the internet is cut off.

Claims 26-35, and 39, are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,199,076-B1 to Logan in view of U.S. Patent 6,192,340 to Abecassis and the Musicmatch Jukebox software in further view of U.S. Patent 6,470,378 to Tracton.

Regarding claim 26, Logan discloses a device in figure 1, for generating a virtual broadcast comprised of: a memory (storage unit 107), a modem 115 for inputting data comprised of content and other information to be integrated into the virtual broadcast and stored in storage unit 107, Client CPU 105 which organizes the data into a particular order for the virtual broadcast by actuating a specific algorithm provided on the device (column 9, lines 15-30). Logan does not disclose the algorithm being run on the virtual broadcast device, or the use of a mobile phone to connect to a website. Abecassis and the Musicmatch software disclose the use of an algorithm run on the virtual device to create a playlist that is stored on the virtual broadcast device (column 13, lines 23-43, column 15, lines 27-67, Musicmatch webpage). Tracton discloses the use of a browser enabled mobile phone with JavaScript capability which connects to the Internet, a server is able to detect the type of processor in a client device and transmits to the client device scalable levels of content, including MPEG video, appropriate to the capabilities of the processor in a client device, additionally custom page data or targeted advertising may be sent to a specific device, each device may include a user profile (column 5, line 13-column 8, line 55, line 63-column 9, line 19). Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Logan to include running the algorithm on the virtual broadcast device as taught by

Abecassis/Musicmatch and utilizing a mobile phone which connects to the internet to download content thereby enabling the user to utilize the virtual broadcast device in a mobile environment and freeing the user from having to connect to a server via a transmission line.

Regarding claim 27, Logan discloses that the data for virtual broadcast includes advertising and a means of organizing the advertising into the virtual broadcast (column 6, lines 60-67, column 8, lines 39-44).

Regarding claim 28, Logan discloses in figure 1 a device for playing the generated virtual broadcast.

Regarding claim 29, Logan discloses means for the device to obtain data from a website (column 5, lines 47-53).

Regarding claim 30, Logan discloses means for uploading user preferences for the data including data type to the website (column 8, lines 12-24, 45-53).

Regarding claim 31, Logan discloses that the content comprises a number of items and the device will upload to a website, after playing an initial virtual broadcast, user rankings of the items played for determining future data to be downloaded from the website to the device (column 9, lines 11-44).

Regarding claim 32, Logan discloses the portions of the data can be deleted on the device (column 9, lines 11-12).

Regarding claim 33, Logan discloses that a user can give higher priority to certain programs (column 9, lines 15-25).

Regarding claim 34, Logan discloses that the data may be obtained from a cellular radio or broadcast satellite signal (column 7, lines 44-47),

Regarding claim 35, Logan discloses that the virtual broadcast may be comprised of music as well as introductions for the music (column 30, lines 1-9, 31-35).

Regarding claim 39, Logan discloses that more than one program can be processed at the same time (column 7, lines 24-31).


***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hunter B. Lonsberry whose telephone number is 703-305-3234. The examiner can normally be reached on Monday-Friday during normal business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on 703-305-4380. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-5359 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.

HBL  
March 18, 2003

  
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